

3/13/15

8:55 P.M.

Chapter No. 309
15/HR26/R1779CS
2019

HOUSE BILL NO. 881

Originated in House



Clerk

HOUSE BILL NO. 881

AN ACT TO AMEND SECTION 77-13-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITIONS OF CERTAIN TERMS AS USED IN THE LAWS REGULATING EXCAVATIONS NEAR UNDERGROUND UTILITY FACILITIES; TO AMEND SECTION 77-13-5, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE REQUIREMENTS AND RENEWAL NOTICE REQUIREMENTS; TO AMEND SECTION 77-13-9, MISSISSIPPI CODE OF 1972, TO INCREASE THE TIME ALLOWED FOR AN OPERATOR TO MARK THE LOCATION OF UNDERGROUND UTILITY LINES OR FACILITIES WHEN HE CAN LOCATE THE LINES OR FACILITIES ONLY BY EXCAVATION; TO AMEND SECTION 77-13-17, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIRED INFORMATION THAT ALL OPERATORS MUST PROVIDE TO MISSISSIPPI 811, INC; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 77-13-3, Mississippi Code of 1972, is amended as follows:

77-13-3. The words defined in this section shall have the following meanings when found in this chapter:

(a) "Excavate or excavation" shall mean any operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced by any means, except: (i) the tilling of the soil less than twenty-four (24) inches in depth for agricultural purposes; or (ii) an operation in

which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced to a depth of less than twelve (12) inches on private property by the property owner without the use of mechanical excavating equipment; or (iii) an operation in which earth, rock or other material or mass of material on or below the ground is moved or otherwise displaced without the use of mechanical excavating equipment to a depth of less than twelve (12) inches on private property by an excavator who is not the property owner, except when such excavation is in a clearly marked underground facility right-of-way; * * * (iv) routine railroad maintenance activities conducted within the track structure, drainage ditches, or within the railroad right-of-way a distance not to exceed thirty (30) feet from the outside rail of the outermost track or tracks, provided this work is performed by railroad employees or railroad contractors and is carried out with reasonable care so as to protect any underground facilities properly installed in the railroad right-of-way by agreement with the railroad; or (v) routine activities of a cemetery, provided that for any cemetery that begins or expands after July 1, 2015, such activities occur only after initial notice is provided to Mississippi 811, Inc., and all affected operators have advised that there are no underground facilities within the boundaries of the subject cemetery. The term "excavate" shall include, but not be limited to, the operations of demolition, blasting, grading, land leveling, trenching, digging, ditching, drilling, augering,

tunneling, scraping, cable or pipe plowing, driving, jacking, wrecking, razing, rending, moving or removing any structure or other material or mass of material on or below the ground.

(b) "Utility" shall mean any person who supplies, distributes or transports by means of underground utility lines or underground facilities any of the following materials or services: gas, mixture of gases, petroleum, petroleum products or hazardous, toxic, flammable or corrosive liquids, electricity, telecommunications (including fiber optics), sewage, drainage, water, steam or other substances.

(c) "Underground utility lines" shall mean underground or buried cable, conduit pipes and related facilities for transportation and delivery of electricity, telecommunications (including fiber optics), water, sewage, gas, mixtures of gases, petroleum, petroleum products or hazardous, flammable, toxic or corrosive liquids.

(d) "Underground facility" shall mean any underground utility lines and other items which shall be buried or placed below ground or submerged for use in connection with underground utility lines and including, but not be limited to, pipes, sewers, conduits, cables, valves, lines, wires, manholes, vaults, attachments and those portions of poles below the ground.

(e) "Person" shall mean any individual, firm, partnership, association, trustee, receiver, assignee, corporation, entity, limited liability company, utility, joint

venture, municipality, state governmental unit, subdivision or instrumentality of the state, or any legal representative thereof.

(f) "Damage" shall mean the substantial weakening of structural or lateral support of underground utility lines and underground facilities, penetration or destruction of any protective coating, housing or other protective devices of an underground utility line or underground facility, and the partial or complete severance of any underground utility line or underground facility, but does not include any operator's abandoned facility.

(g) "Operator" shall mean any person who owns or operates a utility. However, the term "operator" shall not include any railroad or the Mississippi Department of Transportation.

(h) "Working day" shall mean a twenty-four-hour period commencing from the time * * * the locate request is processed or entered into the system by Mississippi 811, Inc., * * * in accordance with this chapter, excluding Saturdays, Sundays and legal holidays.

(i) "Mechanical excavating equipment" shall mean all equipment powered by any motor, engine, or hydraulic or pneumatic device used for excavating and shall include, but not be limited to, trenchers, bulldozers, backhoes, power shovels, scrapers, draglines, clam shells, augers, drills, cable and pipe plows and other plowing-in or pulling-in equipment.

(j) "Excavator" shall mean any person who engages directly in excavation.

(k) "Mark" shall mean the use of stakes, paint or other clearly identifiable materials to show the field location of underground facilities in accordance with the current color code standard of the American Public Works Association, or the uncovering or exposing of underground facilities so that the excavator may readily see the location of same, or the pointing out to the excavator of certain aboveground facilities such as, but not limited to, manhole covers, valve boxes and pipe and cable risers, which indicate the location of underground facilities.

(l) "Mississippi One-Call System, Inc. * * *" shall mean "Mississippi 811, Inc." Whenever the term "Mississippi One-Call System, Inc. * * *" appears in this chapter, the term shall mean "Mississippi 811, Inc."

(m) "Mississippi 811, Inc. * * *" shall mean a nonprofit corporation organized under the laws of the State of Mississippi that provides a service through which a person * * * shall notify the operator(s) of underground facilities of plans to excavate and request marking of facilities.

(n) "Abandoned facility" shall mean any underground utility line or underground utility facilities no longer used in the conduct of the owner/operator's business and are not intended to be used in the future.

(o) "Emergency excavation" shall mean excavation at times of emergency involving danger to life, health or property or a customer service outage.

(p) "Approximate location" of underground utility lines or underground facilities shall mean information about an operator's underground utility lines or underground facilities which is provided to a person by an operator and must be accurate within eighteen (18) inches measured horizontally from the outside edge of each side of such operator's facility, or a strip of land eighteen (18) inches either side of the operator's field mark, or the marked width of the facility or line plus eighteen (18) inches on each side of the marked width of the facility or line.

(q) "Positive response information system" or "PRIS" means an automated information system operated and maintained by Mississippi 811, Inc., that allows excavators, locators, facility owners or operators, and other affected parties to enter and/or determine the status of a locate request.

(r) "Calendar day" shall mean a twenty-four-hour period.

SECTION 2. Section 77-13-5, Mississippi Code of 1972, is amended as follows:

77-13-5. (1) In addition to complying with all other applicable regulations and requirements of federal, state, county and municipal authorities, no person shall engage in excavation of

any kind, before meeting the notification requirements of this chapter. Under this chapter the excavator shall:

(a) Inform himself/herself of the presence and location of any underground utility lines and underground facilities in or near the area where excavation is to be conducted;

(b) Plan and conduct the excavation to avoid or minimize interference with or damage to underground utility lines and underground facilities in or near the excavation area; maintain a clearance between any underground utility line or underground facility and the cutting edge or point of any mechanical excavating equipment, taking into account the known limit of control of such cutting edge or point, as may be reasonably necessary to avoid damage to such facility; and provide such support for underground utility lines or underground facilities in and near the excavation area, including during any backfilling operations, as may be reasonably necessary for the protection of such facilities.

(c) Except as provided in Section 77-13-11, provide not less than two (2) and not more than ten (10) working days' advance written, electronic or telephonic notice of the commencement, extent, location and duration of the excavation work to Mississippi * * * 811, Inc., so that Mississippi * * * 811 System, Inc., operator(s) may locate and mark the location of underground utility lines and underground facilities in the excavation area.

The written, electronic or telephonic notice required by this * * * paragraph (c) shall contain the name, address and telephone number of the person filing the notice of intent, the person responsible for the excavation, the starting date, anticipated duration, type of excavation to be conducted, the location of the proposed excavation and whether or not explosives are to be used.

(2) The markings provided by operators and the locate request number shall only be valid for a period of * * * fourteen (14) calendar days from the * * * date * * * and time the locate request ticket is processed or entered into the system by Mississippi * * * 811, Inc. The person responsible for the excavation project shall renew the notification with Mississippi * * * 811, Inc., at least two (2) and not more than three (3) working days prior to this expiration date and shall continue to renew such notification in the same manner throughout the duration of the excavation. Such renewal notice shall be valid for a period of * * * fourteen (14) calendar days from the date * * * and time the renewal locate request is processed or entered into the system by Mississippi 811, Inc.

(3) Compliance with the notice requirements of this section shall not be required of: (a) persons plowing less than twenty-four (24) inches in depth for agricultural purposes; (b) persons who are moving or otherwise displacing, by hand, earth, rock or other material or mass of material on or below the ground

at a depth of less than twelve (12) inches on property they own; and (c) persons, other than the property owner, who are moving or otherwise displacing, by hand, earth, rock or other material or mass of material on or below the ground at a depth of less than twelve (12) inches, except when such excavation is in a clearly marked underground facility right-of-way.

SECTION 3. Section 77-13-9, Mississippi Code of 1972, is amended as follows:

77-13-9. (1) Every person owning or operating underground utility lines or underground facilities shall, upon receiving advance notice of the commencement of excavation, in accordance with Section 77-13-7, make an investigation, and may report through the use of the PRIS the status of the work performed, within two (2) working days from the time notice is provided in accordance with this chapter to the Mississippi 811, Inc., to determine the approximate location of its underground utility lines or underground facilities in the area of the proposed excavation, and shall either: (a) mark the approximate location of underground utility lines and underground facilities in or near the area of the excavation, so as to enable the person engaged in excavation work to locate the lines and facilities in advance of and during the excavation work; (b) advise in writing or by telephone or electronic means that it has no underground utility lines or underground facilities in the excavation area; or (c) advise in writing or by telephone or electronic means that it can

locate its underground utility lines or underground facilities in the excavation area only by excavation. If an operator can locate its underground utility lines or underground facilities in the excavation area only by excavation and has given proper notice of such, that operator shall be allowed a reasonable amount of additional time, not to exceed * * * four (4) working days from the day the original notice was provided in accordance with this chapter, to mark the approximate location of the underground utility lines or underground facilities.

(2) In lieu of such marking, the operator may request to be present at the site upon commencement of the excavation, so long as the operator complies within two (2) working days of the receipt of the notice.

(3) When an excavator, upon arriving at an excavation site, sees evidence of unmarked underground utility lines or underground facilities or encounters an unmarked underground utility line or underground facility on an excavation site after excavation has commenced where notice of intent has been made in accordance with the provisions of this chapter, that excavator must immediately contact Mississippi 811, Inc. All operator(s) thus notified must contact the excavator within four (4) hours and inform the excavator of any of their known underground facilities, active or abandoned, at the site of the excavation.

(4) When marking the approximate location of the facilities, the operator shall follow the color code designated and described

herein, unless otherwise provided for by specific administrative rule or regulation promulgated pursuant to this chapter, namely:

UTILITY OR TYPE OF FACILITY	GROUP IDENTIFYING COLOR
Electric	Safety Red
Petroleum Product/Hazardous/ Flammable/Corrosive/Toxic Materials, Product and Steam Lines, Gas or Gaseous Material	High Visibility Safety Yellow
Telecommunications (including fiber optic) and CATV	Safety Alert Orange
Potable Water	Safety Precaution Blue
Reclaimed Water, Irrigation, Slurry Lines	Purple
Sewer and Drain Lines	Safety Green
Temporary Survey Markings	High Visibility Pink
Proposed Excavation	White

(5) All utility facilities installed by owners or operators of utilities on or after January 1, 2010, shall be installed in such manner that the utility facility may be located by using a generally accepted electronic locating method.

(6) Except for emergency excavations, if, before the expiration of the two (2) working days waiting period, all identified facility owners or operators have responded to the locate request and all have indicated that their facilities are

either not in conflict or have been marked as indicated through the use of the PRIS, then the person planning to perform excavation or blasting shall be authorized to commence work, subject to the other requirements of this section, without waiting the full two (2) working days.

SECTION 4. Section 77-13-17, Mississippi Code of 1972, is amended as follows:

77-13-17. (1) Any operator who fails to follow, abide by or comply with this chapter shall be responsible for the cost or expense the excavator shall incur as a direct result of the failure of the operator to follow, abide by or comply with the provisions of this chapter.

(2) Operators who have underground utility lines or underground facilities within the State of Mississippi shall be a member of Mississippi * * * 811, Inc.

(3) The person giving notice of the intent to excavate to Mississippi * * * 811, Inc., shall be furnished an individual * * * locate request number for each notification and, upon request, shall be furnished the names of the operators to whom the notification will be transmitted.

(4) An adequate record of all notifications shall be maintained by Mississippi * * * 811, Inc., in order to document timely compliance with this chapter. These records shall be retained for a period of not less than four (4) years and shall be

made available at a reasonable cost upon proper and adequate advance request.

(5) The services of Mississippi * * * 811, Inc., will be provided on working days as defined in Section 77-13-3(h) at least between the hours of 7:30 a.m. and 5:00 p.m.

(6) Mississippi * * * 811, Inc., will voice-record the notification telephone calls and after-hour calls will at least reach a voice recording which explains emergency notification procedures.

(7) All operators shall provide Mississippi * * * 811, Inc., the following information:

(a) A list of counties, cities and towns in which the operator has underground utility lines or underground facilities in each county.

(b) * * * A digital map, paper map or geospatial information showing the location of the operator's underground utility lines or underground facilities or for other reasons wish to receive notification of proposed excavation.

(c) An update on an annual basis of each operator's underground utility lines or underground facilities for the State of Mississippi.

SECTION 5. This act shall take effect and be in force from and after July 1, 2015.

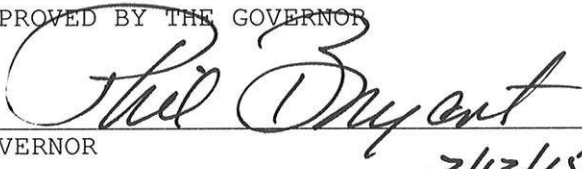
PASSED BY THE HOUSE OF REPRESENTATIVES
February 5, 2015


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 4, 2015


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR
3/13/15
8:55am